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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,322	11/16/2000	Peter M. Keddell	KEPM5001MP	4345

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EXAMINER

SLACK, NAKO N

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 10/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/714,322

Applicant(s)

KEDDELL, PETER M.

Examiner

Naoko Slack

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-71 is/are pending in the application.
- 4a) Of the above claim(s) 1-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 50-71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

As requested by Applicant, claims 1-49 have been cancelled and new claims 50-71 examined. In view of Applicant's Remarks that prior art to Martin fails to show the features of Applicant's invention, a new rejection of the claims is presented below.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 50 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 50, lines 7-8, there appears to be an error in the phrase "proximate fixedly." Perhaps, the term "proximate" should be omitted.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 53, 57-59, 62, 63 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by US Patent 5694726 to Wu.

Prior art to Wu discloses an elongated horizontal trim product (2) for concealing the gap between an upper portion and a vertical wall portion of a building comprising a profile of flat and curved surfaces. A first edge portion is horizontally retained on the upper portion and covered by the trim when mounted to a mating support (upper 11, Figure 1). The second edge is retained by the lower portion of the support structure (lower 11, Figure 1). The fastener is concealed by the trim product.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 50-52, 54-56, 66-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5694726 to Wu in view of US Patent 6112481 to Schiedegger et al.

While prior art to Wu does not disclose the use of a molded block member secured proximate the vertical wall and substantially filling the interior of the trim product, prior art to Schiedegger et al. discloses a trim member bolstered by a foam block (79, Figure 7A) which conforms to the interior profile of the trim product.

In view of prior art to Schiedegger et al., it would be obvious to one of ordinary skill in the art at the time the invention was made to fill the interior of Wu's trim product

with a molded block member, as prior art to Schiedegger et al. teaches that such structure improves the structural rigidity of the trim product (column 8, lines 26-31).

Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5694726 to Wu in view of US Patent 5560158 to Norton. While prior art to Wu fails to disclose attachment of the trim product to a soffit, prior art to Norton, teaches a trim member (10) attached at the upper end to a soffit. In view of Norton, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the upper end of Wu's trim member such that it attaches to a soffit, as the purpose of Wu's invention is to conceal gaps at structural interfaces (column 1, lines 5-9).

Claims 61, 64 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5694726 to Wu in view of US Patent 5729933 to Strength. While prior art to Wu fails to disclose attachment of the trim product to roof sheathing, prior art to Strength discloses a metal unitary cornice whose upper end is attached to roof sheathing (14 and 16, Figure 5). In view of Strength, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the upper end of Wu's trim member such that it attaches to roof sheathing, for reasons explained above, to conceal gaps of structural members (column 1, lines 5-9).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naoko Slack whose telephone number is (703) 305-0315. The examiner can normally be reached on Mon-Fri (6:00 am-2:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703) 308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

NS

September 24, 2002



Carl D. Friedman
Supervisory Patent Examiner
Group 3600